

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
vs.) CRIMINAL NO. 18-30021-MJR
)
)
EMMANUEL D. ABDON,)
)
)
Defendant.)

**GOVERNMENT'S MOTION IN LIMINE PURSUANT TO FEDERAL RULE
OF EVIDENCE 609(a)(2)**

Comes now the United States of America, by and through its attorneys, Donald S. Boyce, United States Attorney for the Southern District of Illinois, and Angela Scott, Assistant United States Attorney, and, in support of its Motion in Limine Pursuant to Federal Rule of Evidence 609(a)(2), states as follows:

Defendant Emmanuel D. Abdon is charged with Enticement of a Minor and Travel with Intent to Engage in Illicit Sexual Conduct. The defendant has a 2012 misdemeanor conviction for Theft by Deception. The Government respectfully requests that, pursuant to Federal Rule of Evidence 609(a)(2), that it be allowed to question the defendant regarding that conviction should he testify at trial.

Federal Rule of Evidence 609(a)(2) requires admission of any conviction “regardless of the punishment” if the conviction involves either a “dishonest act or false statement,” without any consideration as to whether its prejudicial effect outweighs its probative value. *United States v. Kuecker*, 740 F.2d 496, 501 (7th Cir. 1984). See also Fed. R. Evid. 609, Advisory Committee Notes (“The admission of prior convictions involving dishonesty and false statement is not within the discretion of the Court. Such convictions are peculiarly probative of credibility and, under this

rule, are always to be admitted.”). In this case, the defendant’s misdemeanor conviction for theft by deception necessarily involves a dishonest act or false statement as the nature of the offense indicates that it was committed “by deception.” See Fed R. Evid. 609, Advisory Committee Notes (“By the phrase ‘dishonesty and false statement’ the Conference means crimes such as perjury or subornation of perjury, false statement, criminal fraud, embezzlement, or false pretense, or any other offense in the nature of *crimen falsi*, the commission of which involves some element of deceit, untruthfulness, or falsification bearing on the accused’s propensity to testify truthfully.”).

The admission of the conviction is especially important in the instant case where the defendant’s credibility will be a central issue in the case. A disputed issue at trial will be the defendant’s intent when he traveled to Illinois from Florida and what he intended to happen as a result of the texts he sent the minor victim. The determination of these issues will mostly be a matter of he said – she said, although there are text messages that will support the minor victim’s testimony. His credibility as a witness, should he choose to testify, therefore, will be extremely important. Therefore, the Government should be allowed to inquire into his prior conviction for dishonesty should he choose to testify because it bears directly on his propensity to testify truthfully.

WHEREFORE, the Government respectfully requests that this Honorable Court allow the Government to question the defendant regarding his theft by deception conviction should he testify at trial.

Respectfully submitted,

DONALD S. BOYCE
United States Attorney

s/ *Angela Scott*
ANGELA SCOTT
Assistant United States Attorney
Nine Executive Drive
Fairview Heights, IL 62208
(618) 628-3700 Telephone
(618) 628-3730 Facsimile
E-mail: Angela.Scott@usdoj.gov

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CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2018, I electronically filed the **Government's Motion in Limine Pursuant to Federal Rule of Evidence 609(a)(2)** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

AFPD Daniel G. Cronin

Respectfully submitted,

DONALD S. BOYCE
United States Attorney

s/ *Angela Scott*
ANGELA SCOTT
Assistant United States Attorney
Nine Executive Drive
Fairview Heights, IL 62208
(618) 628-3700 Telephone
(618) 628-3730 Facsimile
E-mail: Angela.Scott@usdoj.gov